

ESTTA Tracking number: **ESTTA254127**

Filing date: **12/10/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Makur Designs, Inc.		
Entity	Corporation	Citizenship	New York
Address	38 West 48th St. Suite 600 New York, NY 10036 UNITED STATES		

Attorney information	Philip Furgang 2 Crosfield Ave. West Nyack, NY 10994 UNITED STATES philip@furgang.com Phone:845 353-1818
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### Registration Subject to Cancellation

Registration No	2793987	Registration date	12/16/2003
Registrant	Solid 21 Incorporated 315 West 9th Street Suite 1211 Los Angeles, CA 90015 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 014. First Use: 1989/12/13 First Use In Commerce: 1989/12/13 All goods and services in the class are cancelled, namely: Fine jewelry made of a special alloying of gold with a distinct color made into fine jewelry, namely, watches, necklaces, bracelets, rings, anklets, cuff links, ornamental hair pins, belt buckles of precious metal, tie clips and pegs, and earrings
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### Grounds for Cancellation

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	2008-12-10 Petition to cancel.pdf ( 5 pages )(39873 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Philip Furgang/
Name	Philip Furgang

Date	12/10/2008
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MAKUR DESIGNS, INC.,	)	
	)	Cancellation No.
	)	
Petitioner	)	Registration No. 2,793,987
	)	
-against-	)	Date Issued December 16, 2003
	)	
SOLID 21 INCORPORATED,	)	
	)	
Respondent.	)	

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**PETITION TO CANCEL**

Petitioner, MAKUR DESIGNS, INC., a New York corporation, having a postal address at 38 West 48<sup>th</sup> Street, New York, New York 10036 believes that it is or will be damaged by Registration No. 2,793,987 and hereby petitions to cancel same.

Description of Respondent's registration:

Registration No.	:	2,793,987
Filed on	:	July 25, 2002
For the mark	:	RED GOLD
Registered on	:	The Principal Register
In Class	:	14
For	:	Fine jewelry made of a special alloying of gold with a distinct color made into fine jewelry,

namely, watches, necklaces, bracelets, rings, anklets, cuff links, ornamental hair pins, belt buckles of precious metal, tie clips and pegs, and earrings

Claiming First Use On : December 13, 1989

Claiming First Use In  
Commerce : December 13, 1989

Registration Date : December 16, 2003

Notification should be sent to: Solid 21 Incorporated  
315 West 9th Street Suite 1211  
Los Angeles, California 90015

As grounds for this Petition, it is alleged that:

### **BACKGROUND**

1. Petitioner is a New York corporation in the jewelry business. Petitioner uses RED to identify the color of its jewelry. Respondent has threatened Petitioner with suit if it did not cease and desist its use of RED for jewelry based upon Respondent's Registration No. 2,793,987.

2. Respondent uses the expression RED GOLD, to identify "a special alloying of **gold with a distinct color** made into fine jewelry namely, watches, necklaces, bracelets, rings, anklets, cuff links, ornamental hair pins, belt buckles of precious metal, tie clips and pegs, and

earrings.” (Emphasis added). The “gold with a distinct color” is reddish gold.

### **COUNT I**

3. The allegations of ¶¶ 1 through 2 are incorporated herein by reference as if fully set forth.

4. Respondent’s use of RED GOLD is merely descriptive of its “gold with a distinct color.”

5. The distinct color is red. The mark therefore merely describes the red-colored gold that Respondent is offering for sale.

6. An internet search reveals that “red gold” is a general term used to describe red-colored gold. According to Wikipedia, “Rose gold is a gold and copper alloy widely used for specialized jewellery due to its reddish color. It is also known as pink gold and red gold.” and the “names are often used interchangeably.” [http://en.wikipedia.org/wiki/Colored\\_gold](http://en.wikipedia.org/wiki/Colored_gold). According to Goldprice, a jewelry buying and selling guide, “the second most common variation on 24 karat gold jewelry is rose gold or red gold jewelry.”

<http://goldprice.org/gold-jewelry/2006/01/purple-gold-blue-gold-green-gold-black.html>.

Similarly, Glimmer Rocks states “Rose Gold Jewelry which is also known as pink gold and red

gold is a gold and copper alloy which is widely used for specialized jewelry.”

<https://www.glimmerrocks.com/read/8/116/rose-gold-jewelry.html>.

7. Many retailers offer “red gold” for sale. These include The Titan Factory (titanium jewelry with red gold inlay),  
<http://search.store.yahoo.net/cgi-bin/nsearch?catalog=silverprince&vwcatalog=silverprince&query=red%20gold>,

Simon G, [http://www.simongjewelry.com/rose\\_gold\\_jewelry.html](http://www.simongjewelry.com/rose_gold_jewelry.html),

and Hublot (watch with red gold case, bezel, clasp and hands),

[http://www.thefinestwatches.com/index.cfm/fuseaction/catalog.viewProduct/productId/10360/catalogId/4536/Hublot\\_Big\\_Bang\\_King\\_Jewelry\\_48mm\\_Watch\\_Red\\_Gold\\_Black/White\\_Baguette\\_Diamond\\_Bezel.htm](http://www.thefinestwatches.com/index.cfm/fuseaction/catalog.viewProduct/productId/10360/catalogId/4536/Hublot_Big_Bang_King_Jewelry_48mm_Watch_Red_Gold_Black/White_Baguette_Diamond_Bezel.htm).

8. Respondent’s use of RED GOLD for “gold with a distinct color” is, therefore, merely descriptive and not entitled to registration and said registration must therefore be cancelled.

WHEREFORE, Petitioner's request for cancellation of Respondent's alleged  
Registration No. 2,793,987 be granted and that Registration No. 2,793,987 be stricken from the  
Principal Register.

Respectfully submitted,  
FURGANG & ADWAR, L.L.P.

/Philip Furgang/  
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Dated: December 10, 2008